

CALIFORNIA COASTAL COMMISSION

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REGULAR COASTAL DEVELOPMENT PERMIT

Application number 3-04-072

Applicant..... **Moss Landing Harbor District, Linda MacIntyre, General Manager, Fran Huston, Representative**

Representative Francis Huston, Land Systems Group

Local government Monterey County

Project location Moss Landing North and South Harbors, Moss Landing, North Monterey County

Project description 5-year maintenance project for the repair, resetting and/or replacement of pilings (approximately 600) and floating docks in the North and South Harbor areas.

Local Approvals MLHD Construction Permit dated 11/2/2004.

File documents..... Previous 5-yr maintenance permit 3-97-088.

Staff recommendation **Approval with Conditions**

Summary of Staff Recommendation

The staff recommends that the Commission **approve** the proposed 5-year piling maintenance program, subject to the conditions below, which provide for protection of marine resources required by Coastal Act Sections 30230 and 30231. Long-term maintenance of the Moss Landing Harbor marinas will enhance the resources available to commercial and recreational boaters consistent with Coastal Sections 30234 and 30234.5 of the Coastal Act.

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California Coastal Commission
February 2005 Meeting in Monterey

Staff: K. Cuffe Approved by:

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4. Exhibits

- A. Regional Location Map: Moss Landing Harbor
- B. June 2001 Aerial Photo of Moss Landing Harbor and Vicinity
- C. Existing Piling Locations in Moss Landing Harbor
- D. Proposed site Plans for North Harbor Redevelopment Area
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- F. Currently Approved Dredging Areas Under Long-term Maintenance Dredging Permit (CDP 3-01-049; expires 8/31/07)

1. Staff Recommendation on Permit

The staff recommends that the Commission, after public hearing, **approve** the proposed permit subject to the standard and special conditions below. Staff recommends a **YES** vote on the following motion:

Motion. *I move that the Commission approve the Coastal Development Permit Number 3-04-072 pursuant to the staff recommendation.*

Staff Recommendation of Approval. *Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.*

Resolution to Approve a Coastal Development Permit. *The Commission hereby approves the coastal development permit on the ground that the development, subject to conditions included herein, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment.*



2. Conditions of Approval

Standard Conditions

- 1. Notice of Receipt and Acknowledgment.** The permit amendment is not valid and development shall not commence until a copy of the permit amendment, signed by the permittee or authorized agent, acknowledging receipt of the permit amendment and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

Special Conditions

- 1. Permit Expiration.** This permit shall be valid for 5 years from the date of Commission approval (until February 15, 2010). Requests for extension of this permit for an additional five or ten year period may be accepted, reviewed and approved by the Executive Director, provided the extension request does not substantially alter the project description. If the project is substantially changed, and/or requires modifications of conditions due to new information or technology, an amendment to this permit may be necessary.
- 2. Final Project Plans.** PRIOR TO COMMENCEMENT OF CONSTRUCTION OF EACH EPISODE OF PILING REPAIR AND MAINTENANCE, the permittee shall submit for Executive Director review and approval, final project plans which shall consist of a written description and supporting graphics outlining phasing and construction sequence; seasonal considerations; and location of equipment staging areas, temporary security fencing, concrete wash-down facility, and any similar elements which would affect ocean water quality or public access to the shoreline. The extent of the final project plans shall be commensurate with the scope of the project. Minor piling repair and dock maintenance activities (e.g., the replacement of one or two pilings, gangway, or floating docks) do not require the submittal of a final plan; however, in these cases, the permittee shall notify the Executive Director of the repair and maintenance activity proposed to be undertaken in writing PRIOR TO COMMENCEMENT OF CONSTRUCTION, with the location and sketch of the area and/or facilities needing



repair/maintenance, for a determination if the submission of any additional information may be needed.

In order to maintain public parking and shoreline access during construction activities, maintenance phasing and construction activities shall minimize the amount of public parking and shoreline access used during these activities to that necessary for temporary storage of construction materials and boat access and loading.

3. Water Quality and Piling Material.

- a. Interior Pilings. This permit authorizes the use of high-density polyethylene, steel-reinforced concrete, or steel-cased pilings or existing stocks (approximately 15 ACZA piles, as of 1/20/05) of inorganic arsenical (CCA, ACA, ACZA) pressure-treated wood for interior pilings only (i.e., pilings that will not come into direct contact with ocean vessels). Pilings treated with Ammoniacal Copper Arsenate (ACA), Ammoniacal Zinc Arsenate (ACZA) or Chromated Copper Arsenate (CCA) shall be used only if wrapped PRIOR TO INSTALLATION in a watertight plastic sleeve, and in a manner acceptable to the Executive Director as follows:
 - i. The material used shall be durable enough to maintain its integrity for at least 10-years and a minimum of one-tenth of an inch thick.
 - ii. All joints shall be sealed to prevent leakage.
 - iii. Sealing or capping the tops of the pilings shall prevent ACZA surface exposure within the water column.
 - iv. Measures shall be taken to prevent ACA, CCA and/or ACZA from dripping over the top of plastic wrapping into State Waters. These measures may include wrapping pilings to the top or installing collars to prevent dripping.
 - v. The plastic sleeves shall extend a minimum of 18 inches below the mudline.
- b. Exterior Pilings: The only materials that can be used for exterior pilings (i.e., those that may come into direct contact with ocean vessels), under this permit shall be high-density polyethylene, steel-reinforced concrete, or steel-cased pilings.
- c. Use of Plastic-Wrapped and High-Density Polyethylene Pilings. The use of plastic-wrapped inorganic arsenical (CCA, ACA, or ACZA) pressure-treated wood for interior pilings and the use of high-density polyethylene for exterior pilings, shall conform to the following requirements:
 - i. **Inspection and Maintenance Program.** The permittee shall inspect all pilings installed under this permit to ensure the integrity of the piling ON AN ANNUAL BASIS FOR ALL PLASTIC PILES THAT MAY COME INTO CONTACT WITH BOATS, AND ON A BIENNIAL BASIS FOR THOSE



THAT WILL NOT, beginning one and two years (as applicable) following the date that the first pile is installed, and shall immediately undertake any repairs necessary to maintain the wrapping and/or structural integrity of the pilings. The inspections shall be conducted by boat, during periods of extreme low tides, and synchronized, when feasible, to precede the periods of maximum expected harbor occupancy. Alternatively, the permittee may submit a different timeline for the piling inspection program that ensures that the plastic wrapping and/or structural integrity of the pile is properly maintained; the alternative timeline shall be reviewed and approved by the Executive Director PRIOR TO THE INSTALLATION OF PLASTIC PILINGS.

- ii. **Future Improved Technology.** If federal or state regulatory agencies, through new or better scientific information, determine that environmentally less damaging materials or methods are available for piling replacement, and are feasible to implement, the permittee shall, after consultation with the Executive Director, revise procedures or use alternative materials consistent with the new information. The substitution of non-plastic piling materials may be authorized by the Executive Director. Other revisions, including the use of other preservative-treated piles, may require an amendment to this permit.
- iii. **Compliance with Fish and Game Guidelines.** The use of plastic wrapped pilings shall comply with current guidelines established by the California Department of Fish and Game for the use of such materials. The permittee shall submit, for Executive Director review and approval, written evidence that the California Department of Fish and Game has reviewed the project and has confirmed that the use of such materials conforms to current CDFG guidelines, or evidence that no such conformance is required.
- d. **Water Quality Review.** PRIOR TO THE INITIAL INSTALLATION OF PLASTIC WRAPPED ACZA-TREATED PILINGS, the permittee shall submit, for Executive Director review and approval, written evidence that the State Water Resources Control Board or Regional Water Quality Control Board has reviewed and approved the use of such materials, or evidence that no such approvals are required. In the instance that a Waste Discharge Requirement, Wavier, or Water Quality Certification (pursuant to Sections 13263, 13269(a), and 13160 of the Water Code, respectively) is not issued by the State Water Resources Control Board or a regional water quality control board after a public hearing for such activities, the permittee shall submit, for Executive Director review and approval, written evidence that the Department of Fish and Game has determined that the use of such materials at this specific harbor and in this particular circumstance is consistent with their guidelines PRIOR TO THE INITIAL COMMENCEMENT OF PILING INSTALLATION.



4. **Piling Removal and Installation Requirements.** The permittee shall consult with the California Department of Fish and Game to ensure that piling removal and installation shall be performed according to the method that results in the least disturbance of bottom sediments. Evidence of such consultation shall be provided to the Executive Director PRIOR TO COMMENCEMENT OF CONSTRUCTION OF EACH EPISODE OF PILING REPAIR AND MAINTENANCE. Piling installation and removal may also require that disturbed sediments be contained with a flexible skirt surrounding the driven pile. Contracts and/or specifications for such work shall incorporate the containment requirements of Special Condition 3a, above. However, where pilings are to be removed from areas known to have contaminated sediments (e.g., dredge areas B and C, just north of the Sandholdt Road Bridge, dredge area D around “K” Dock, and dredge area E around Gravelle’s Boatyard - as shown in Exhibit F- based on sediment testing conducted as part of previous harbor dredging activities) they shall not be extracted, but rather shall be cut at mud level and remain in place to avoid resuspending contaminated bottom sediments.
5. **Foreign Material Containment Requirements.** No foreign materials (e.g., construction scraps, wood preservatives, other chemicals, etc.) resulting from construction or demolition activities associated with this project shall be allowed to enter state waters. Where additional wood preservatives must be applied to cut wood surfaces, the materials shall be treated at an onshore location to preclude the possibility of spills into state waters. UNLESS AN ALTERNATIVE CONTAINMENT PLAN IS APPROVED BY THE EXECUTIVE DIRECTOR, a floating containment boom shall be placed around all active portions of a construction site where wood scraps or other floatable debris could enter the water. Also, for any work on or beneath fixed wharf decks, heavy duty mesh containment netting shall be maintained below all work areas where construction discards or other material could fall into the water. The floating boom and net shall be cleared daily or more often if necessary to prevent accumulation of debris. Contractors shall insure that work crews are carefully briefed on the importance of observing these precautions and reporting any accidental spills. Construction contracts shall contain appropriate penalty provisions, sufficient to offset the cost of retrieving or clean up of foreign materials not properly contained.
6. **Procedures for Concrete Work.** If pile installation requires the pouring of concrete in, adjacent to, or over the water, the following methods shall be employed to prevent uncured concrete from entering the waters of the Bay:
 - a. Complete dewatering of the pour site, within a caisson or other barrier; the site to remain dewatered until the concrete is sufficiently cured to prevent any significant increase in the pH of adjacent waters; or,
 - b. The tremie method, which involves placement of the form in water, inserting a plastic pipe down to the bottom of the form, and pumping concrete into the form so that the water is displaced towards the top of the form. If this method is selected, the displaced waters shall be pumped off and collected in a holding tank. The collected waters shall then be tested for pH, in accordance with the following California Department of Fish and Game



recommendations. If the pH is greater than 8.5, the water will be neutralized with sulfuric acid until the pH is between 8.5 and 6.5. This pH-balanced water can then be returned to the sea. However, any solids that settle out during the pH balancing process shall not be discharged to the marine environment; or,

- c. An alternative method, subject to review and approval by the Executive Director (in consultation with the California Department of Fish and Game) PRIOR TO COMMENCEMENT OF WORK.

In each case involving such concrete pours in or near the waters of the Bay, the permittee shall insure that a separate wash out area is provided for the concrete trucks and for tools. The wash out area(s) shall be designed and located so that there will be no chance of concrete slurry or contaminated water runoff to the adjacent waters of Monterey Bay.

7. **Water Quality Review.** Permittee shall be responsible for obtaining any necessary approvals from the Regional Water Quality Control Board, including any Section 401 water quality certification or waiver, which may be required. PRIOR TO THE COMMENCEMENT OF PILE INSTALLATION/REPLACEMENT OR IN-WATER CONSTRUCTION, permittee shall provide written evidence that the Regional Water Quality Control Board (RWQCB) has reviewed and approved the proposed work, or that no such approvals are needed.
8. **Other Agency Approvals.** PRIOR TO THE COMMENCEMENT OF CONSTRUCTION OF A SPECIFIC ELEMENT OF THE OPERATIONS AND MAINTENANCE PROGRAM, the permittee shall submit, for Executive Director review and approval, documentation from the Corps of Engineers, that the project has been reviewed for conformance with Clean Water Act requirements, and, that the project is permitted or that no Corps permits are necessary.
9. **Additional Harbor Improvements.** Additional development activities beyond those specified in this approval shall be submitted for a determination of the appropriate coastal development permit requirements (i.e., a separate Coastal Development permit, amendment to this permit, or waiver).

3. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Location and Description

Project Location

Moss Landing Harbor is one of six developed harbors located along the Central Coast, four of which border the Monterey Bay National Marine Sanctuary. Moss Landing Harbor is sited near the center of Monterey Bay about 80 miles south of San Francisco. The harbor occupies a portion of the Old



Salinas River channel paralleling the coast and separated from the ocean by sand dunes. Approximately 175 recreational boats and 200 commercial boats are berthed in the Harbor as well as marine research vessels used by the Moss Landing Marine Labs and the Monterey Bay Aquarium Research Institute. Upland land uses in the area include marine research facilities, commercial fishing and recreational boating operations, manufacturing and various visitor-serving restaurants and shops. Periodic winter flows continue to reach the harbor through the Old Salinas River channel from the south. Inland is the Elkhorn Slough National Estuarine Reserve whose tidal exchange flows through the Harbor.

Project Description

The Moss Landing Harbor District (District) is requesting a permit for a five-year repair and maintenance plan to repair, reset, and/or replace up to 600 pilings located throughout the North and South Moss Landing Harbor area (including approximately 415 existing pilings and approximately 200 new pilings to be installed as part of the recently approved North Harbor Redevelopment Project), and general repair and maintenance of existing floating docks. Replacement pilings will have a maximum diameter of 24 inches (though most will be between 12 and 18 inch diameter). Floating docks will be constructed using either wood or concrete, with submerged floats.

The staging area for construction activities will be located in the District's parking lots (North and South Harbor). Piles, and dock components as necessary, will be loaded onto a self-propelled marine vessel and taken to the area of piling removal. Each pile will be extracted vertically and, if this method does not work, the piles will be broken or cut at the project level plus the allowed over cut, and the stubs will remain in place. Any debris caused from the break or cut will be skimmed and collected to prevent hazards within the waterway. The District will jet out the old concrete piles, which will be replaced using a special pile driver for concrete. All other pilings will be replaced using the District's own pile driver. The work will be conducted during times that will not cause obstruction/disturbance to moving vessels, marine habitat or the public at large. All areas will remain accessible and repair activities will not cause disruption to long-term harbor operations.

Other Agency Approvals

The State Lands Commission has reported that the project involves lands that have been granted to Moss Landing Harbor District and that no action is required on their part. The U.S. Army Corps of Engineers has indicated that piling repair, replacement and maintenance is covered under a Nationwide Permit and no action on their part is required.

The Regional Water Quality Control Board is reviewing the proposal. The permit has been conditioned to require submittal of Regional Board approval prior to commencement of each piling replacement episode.

The permit has also been conditioned to require that during the 5 year permit period if federal or state regulatory agencies through new or better scientific information or analysis determine that environmentally less damaging materials or methods are available for these repair and maintenance



activities and are appropriate and feasible to implement, the permittee shall incorporate the alternative materials or new methods.

C. Coastal Act Issues

1. Marine Resources

The proposed development will be located in and over the open coastal waters of Monterey Bay.

According to the USACOE Public Notice 22026S27 (February 19, 1996) for Moss Landing Harbor Dredging Project, federally listed animal species that may occur in the vicinity of the project area include the endangered tidewater goby (*Eucyclogobius newberryi*), the California brown pelican (*Pelecanus occidentalis californicus*), and the threatened southern sea otter (*Enhydra lutris nereis*). In addition, the endangered coho salmon have been identified off the entrance to Moss Landing Harbor.

The inner harbor area is also adjacent to the Monterey Bay National Marine Sanctuary (MBNMS) so designated because of its environmentally sensitive habitats, recreational values, and other special natural resource attributes (MBNMS Designation Document, Article II, 15 Code of Federal Regulation (CFR), Paragraph 944.2.)

To protect marine resources the Coastal Act strictly limits the type and extent of development in coastal waters. Maintenance of existing piers is a permitted use under Section 30233.

Section 30233 of the Coastal Act states in part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:...

(4) In open coastal waters, other than wetlands, including steams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines...

Permitted development must be the least environmentally damaging alternative and mitigation measures must be provided to minimize adverse environmental effects. Water quality and the biological productivity of the marine environment are specifically protected by the Act under policies 30230 and 30231. Section 30240 provides for protection of environmentally sensitive habitat and Section 30232 provides for protection against spillage of hazardous substances.

Section 30230 of the Coastal Act states:



Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long term commercial, recreational, scientific, and educational purposes.

Section 30231 provides:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

In addition Section 30232 provides:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Coastal Act Section 30240 (b) states:

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreational areas.

Although not a standard of review for this permit, the National Marine Sanctuary Program also protects marine resources. Specifically, National Marine Sanctuary Program Regulations, 15 CFR Paragraph 944.5(a)(3) of the Sanctuary Regulations prohibit:

Discharging or depositing, from beyond the boundary of the Sanctuary, any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality...

The proposed development repairs, maintains and replaces existing structures using developed land based sites and facilities for staging, storing and transporting materials. Boats are used to convey the pilings to the installation sites. The major potential environmental impact is water quality degradation. The proposed development has the potential to impact water quality through increased turbidity, the use materials which may leach toxins into the water column, and spilling of hazardous substances.



Water Quality

Water quality in Moss Landing Harbor has been affected by agricultural runoff and the by-products of boating and industrial uses. Major concerns have been raised throughout the years regarding pesticides, heavy metal, and other toxic materials. DDT, toxaphene, dieldrin, endrin, aldrin, and endosulfan were found during previous sediment testing conducted pursuant to the District's harbor dredging permits. These contaminants are insoluble in water but highly soluble in lipids or animal fatty tissue where they tend to concentrate.

Because of the low water solubility of DDT (0.0012 ppm) and its strong adsorption to soil particles, contamination of the aquatic environment by DDT and its metabolites is primarily associated with aquatic sediments. In addition metals are insoluble in water. Hence, the contaminants of concern are not in the water column. Since the sediments carry these pollutants, turbidity is the major issue.

Three areas in particular have been found to contain contaminated sediments; they include dredge areas B and C, just north of the Sandholdt Road Bridge, dredge area D around "K" Dock, and dredge area E around Gravelle's Boatyard, all located in the South Harbor area.

Pile Driving and Removal

The installation of piles has the potential to stir up sediments on the ocean floor. This increase in turbidity adversely affects marine resources by reducing the amount of light penetration, diminishing water quality, and burying living organisms. In addition, any contaminants in harbor sediments become more bioavailable when suspended in the water column.

The applicant proposes that to minimize turbidity each pile will be extracted vertically or if this method does not work, the piles will be broken or cut at the project level plus the allowed over cut. The stubs will remain in place. Any debris caused from the break or cut will be skimmed and collected to prevent hazards within the waterway. The District will jet out the old concrete piles which will be replaced with a special pile driver for concrete. All other pilings will be replaced with the District's own pile driver. For piling removal work at Monterey Harbor, the California Department of Fish and Game recommended that, where feasible, disturbed sediments should be contained with a flexible skirt surrounding the driven pile. Special Condition 3 requires the use of a flexible skirt in Moss Landing Harbor consistent with California Department of Fish and Game recommendations.

Since pile removal and installation in known areas of contaminated sediments areas have the potential to stir up more of these contaminated sediments, the permit requires that rather than extracting damaged piles in these areas, they be cut at mud level and new piles installed near the existing pile stubs in order to minimize sediment disturbance in these areas.



Concrete

The pH of marine water becomes elevated if it comes in contact with uncured concrete. Elevated pH levels can be toxic to marine life. Special Condition 6 specifies procedures for concrete work designed to eliminate the possibility of marine water coming into contact with uncured concrete.

Preservatives

Preservatives used to treat pilings can have deleterious effects on water quality. Creosote-treated pilings leach into the surrounding waters and can be toxic to marine life. Department of Fish and Game marine biologists have, in the past, opposed use of creosote-treated wood products in State waters. The applicant does not propose the use of creosote-treated piles but does propose to use existing arsenical-treated wooden piles it has on hand, as well concrete, steel-cased or high-density plastic pilings.

Due to the project's location in and over coastal waters, it is necessary to ensure that construction activities will be carried out in a manner that will not adversely affect water quality or marine resources. It is also necessary to evaluate the material used to treat and wrap new timber and any steel coatings, as certain substances may have an adverse impact on water quality.

Commission staff has contacted the California Department of Fish and Game (CDFG) staff to request information on the requirements for use of certain materials for similar projects in the past. According to the CDFG, the use of any petroleum, acid, coal or oil tar, lampblack, aniline, asphalt, bitumen, or residuary product of petroleum, or carbonaceous materials or substance is normally prohibited on pier pilings in state waters. Creosote is included in this category. However, the currently proposed project does not include the use of creosote for treatment of the pilings.

The applicant does propose to use Ammoniacal Copper Arsenate (ACA), Ammoniacal Zinc Arsenate (ACZA) or Chromated Copper Arsenate (CCA) treated piles that it has on hand. Planks of floating docks will also likely be treated with ACZA. ACZA, ACA and CCA contain copper, zinc, and arsenic. These chemicals are used to preserve the wood when used in or over the water. Until recently, little research has been conducted on the release of wood preservatives from existing structures and the environmental impacts, if any, of those releases. In each of those studies, measurable amounts of preservatives were shown to be released from ACZA, ACA and CCA-treated pilings into the environment¹. While the degree of environmental accumulation and biological impacts appear to be low, some release does occur². Recognizing the potential impacts of using ACA, ACZA, and CCA treated wood products in the marine environment, a precautionary approach is warranted. Thus, for similar piling replacement projects, the Commission has required that chemically treated wooden piles be wrapped with a water-tight plastic cover in order to prevent the leaching of these chemicals into the water column.

¹ Leaching of Wood Preservative Components and their Mobility in the environment; Summary of pertinent literature; Stan Lebow, prepared for United States Forest Service, august, 1996

² Guide for Minimizing the effect of Preservative-Treated Wood on Sensitive Environments, Lebow and Tippie, prepared for United States Forest Service, February 2001.



The permit has been conditioned to allow the District to use its stockpile of Arsenic-treated wooden pilings (approximately 15 pilings, as of 1/20/05, according to applicant's representative, Fran Huston), provided they are wrapped in water tight plastic sheeting, and once the stockpile has been used, to allow only high-density polyethylene, steel-reinforced concrete, or steel cased pilings. Additionally, as conditioned, any change in piling material or piling treatment, will require a coastal development permit amendment.

The Commission is also concerned about the use of plastic in the marine environment due to the possible deterioration of the pile wrapping and subsequent increase in marine debris. Since plastic is an inorganic material, it does not biodegrade, but rather continually breaks down into ever-smaller pieces. The presence of plastics in the coastal and ocean environment is both widespread and harmful to human and marine life.

In this case, the pilings will be used to support commercial and recreational boating purposes. As such, there is a potential for damage as a result of marine debris and boat abrasion. Thus, it is necessary for the Commission to require maintenance of any plastic wrapping that encases treated wood pilings, as it has for other such projects (e.g., CDP No. 5-01-234-A2 (San Clemente Pier Repairs³), 3-02-071 (Port SLO), 6-02-151 (NCTD), 5-99-150 (San Clemente Pier) and 5-99-382 (San Clemente Pier)). Special Condition 3.c.i. also requires that the Moss Landing Harbor District periodically inspect all pilings installed as part of this project, and immediately undertake any repairs necessary to maintain the plastic wrapping (including patching any holes to ensure that the piles are completely encased) and/or the integrity of the piles. Every two years following initial pile installation, the applicant shall inspect the pier to ensure the integrity of the piles, and to ensure that all corrective actions have been or will be immediately undertaken to maintain the plastic wrapping and/or the integrity of the piles. An alternative maintenance schedule may be approved by the Executive Director if it is found to achieve the same objective.

Furthermore, since the proposed project is located in and over coastal waters, there is always the possibility that construction materials or debris may end up in coastal waters. In order to prevent adverse impacts to marine waters from project activities, Special Condition No. 5, requires the safe storage of construction materials and containment and disposal of demolition end-products.

Regional Water Quality Control Board

The coastal development permit has been conditioned for submittal of the RWQCB approval or evidence that no approval is required prior to commencement of each episode of piling maintenance.

Conclusion

As conditioned the coastal development permit will provide for (1) Executive Director review and approval of final project plans for each episode of piling maintenance which shall consist of a written description and supporting graphics outlining phasing and construction sequence; seasonal considerations; and location of equipment staging areas, temporary security fencing, concrete washdown facility, and any similar elements which would affect ocean water quality or public

³ Which was most recently approved in June 2004.



access to the shoreline (2) use of existing wooden pilings provided they are wrapping in watertight plastic, (3) future use of pilings that are non-toxic (4) containment of construction debris and precautionary requirements for contractors regarding accidental spills, (5) procedures for concrete work, and (6) review by the Regional Water Quality Control Board.

These measures will further minimize the risk of water quality degradation and impacts on marine resources in the harbor and in the adjacent Monterey Bay National Marine Sanctuary. Therefore, as conditioned, the proposed development is consistent with the Marine Resource policies of Chapter 3 of the Coastal Act and Coastal Act Policy 30240 which protects environmentally sensitive habitat.

3. Public Recreation and Access

Sections 30210-14 of the Coastal Act provide for maximizing public access to the coast. Existing District facilities provide for both pedestrian and boating access. Section 30234 also requires protection of commercial fishing and recreational boating facilities and Section 30224 encourages increased recreational boating use of coastal waters. The Moss Landing Harbor serves approximately 175 recreational boats and 200 commercial boats, as well as temporary berthing for day-use and transient boaters. The Harbor District has also recently been granted approval by the Coastal Commission to expand recreational boating facilities in the North Harbor area, including installation of a public wharf and additional floating dock space. This permit application is intended to maintain and repair as necessary both existing and new recreational boating facilities located in the Moss Landing Harbor.

The Harbor District will stage the piling maintenance and replacement project from the District parking lots. Each episode of piling maintenance/replacement will require varying encroachment on parking and waterways. The Harbor District indicates that the maintenance work will be conducted during times that will minimize obstruction/disturbance to moving vessels and to the public at large.

The proposed piling maintenance program is not expected to have any significant impacts on existing public pedestrian access and minimal impact on vehicular and boating access to the shoreline. Failure to provide ongoing maintenance and repair of marina facilities could result in a reduced number of available berths and docks and thus restrict the amount of available access to recreational and commercial boating, as well as to recreational fishing access.

To provide continuing assurance that access impacts will be minimal, the permit has been conditioned to provide for the submittal of final plans for each episode of piling work including staging area and phasing for review and approval by the Executive Director.

Therefore, as conditioned, the proposed development will protect public pedestrian access and will enhance water-dependent access opportunities and is consistent with the Access policies of the Coastal Act.



D. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect that the activity may have on the environment. The Secretary for Resources has certified the Coastal Commission's review and analysis of land use proposals as being the functional equivalent of environmental review under CEQA. Accordingly, the Commission finds that as conditioned the proposed project will not have significant adverse effects on the environment within the meaning of CEQA; that there are no feasible alternatives that would significantly reduce any potential adverse effects; and, accordingly, the proposal, as conditioned, is in conformance with CEQA requirements.

